

INDUSTRY CIRCULAR

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE
ALCOHOL AND TOBACCO TAX DIVISION



WASHINGTON 25, D. C.

Industry Circular No. 57-41

December 31, 1957

TREASURY DECISION 6262 AMENDING 26 CFR PARTS 270 AND 275

Manufacturers of tobacco, cigars, and cigarettes:

Purpose. The purpose of this industry circular is to advise you of the amendment of regulations in 26 CFR Parts 270 and 275 by Treasury Decision 6262, published in the Federal Register of November 2, 1957 (22 F. R. 8851), effective January 1, 1958, and to acquaint you with some of its provisions.

Background. You were advised in Industry Circular No. 57-24, dated August 20, 1957, regarding the notice of proposed rulemaking, published in the Federal Register of August 14, 1957 (22 F. R. 6513), to amend sections 270.142, relating to cigars and cigarettes, and 275.132, relating to manufactured tobacco, in order to provide for the utilization of commercial records, in lieu of the prescribed internal revenue records, by manufacturers of tobacco products. No objections to the proposed rulemaking were received during the 30-day period prescribed in the notice, and the amendments so proposed were adopted by Treasury Decision 6262.

General Comments. Sections 270.142 and 275.132, as amended, specify the information concerning those operations and transactions which manufacturers of tobacco, cigars, and cigarettes are required to record. Such information may be recorded on commercial records or on the presently prescribed internal revenue records, Form 2141, Record To Be Kept By Manufacturer Of Tobacco; Form 2142, Record To Be Kept By Manufacturer Of Large Cigars; and Form 2143, Record To Be Kept By Manufacturer Of Small Cigars And Large And Small Cigarettes. The entries for each day in the records, whether in commercial records or in the prescribed internal revenue forms, will continue to be considered timely if made by the close of the business day following that on which the operations or transactions occur. Similarly, the records must be retained by the manufacturer for two years following the close of the year covered, and must be made available for inspection by any internal revenue officer upon his request.

Utilization of Commercial Records. The manufacturer whose commercial records reflect the required information concerning his operations and transactions may, in accordance with amended sections 270.142 and 275.132, utilize such records, in lieu of maintaining Form 2141, 2142, or 2143, as the case may be. The regulations do not prescribe any particular form of commercial records, but do require that the prescribed information be readily ascertainable from the commercial records maintained by the manufacturer.

Use of Internal Revenue Record, Form 2141, 2142, or 2143. If a manufacturer of tobacco products does not maintain and utilize commercial records which reflect the required information, such manufacturer must, under the amended regulations, keep the appropriate internal revenue record, Form

2141, 2142, or 2143, as well as the auxiliary and supplemental records of individual operations and transactions from which such record is compiled. The two-year retention period also applies to these auxiliary and supplemental records. If you intend to continue to use Form 2141, 2142, or 2143, you should so advise the assistant regional commissioner (alcohol and tobacco tax), since he will not furnish supplies of such forms unless requested.

Accounting for Taxpaid Tobacco Products Received into the Factory.

Manufacturers of cigars and cigarettes are required to enter in their records the number of all taxpaid small cigars, large cigars (itemized by class), small cigarettes, and large cigarettes, received into the factory (whether withdrawn from the market or otherwise received) and disposed of. Similarly, manufacturers of tobacco are required to enter in their records the quantity (in pounds) of all taxpaid manufactured tobacco received into the factory and disposed of, without itemizing by kinds. You will note that the amendment requires that taxpaid tobacco products received into the factory shall now be timely recorded and accounted for in the account of taxpaid tobacco products received, irrespective of the intended disposition of such products. The entries must show the total number or quantity (itemized by class in the case of large cigars) of such products received each day. Appropriate entry must be made in this account of the disposition of such products, such as "reshipped as is" (that is, in the same packages as received, without reworking or rehandling), "converted to untaxpaid status" (that is, in connection with a claim or by reworking or rehandling), "reduced to materials," or "destroyed." The entries must show separately the total number or quantity (itemized by class in the case of large cigars) of such products that have been disposed of, each day, in each such manner. Of course, if such products are converted to an untaxpaid status in connection with a claim or by reworking or rehandling, entry must also be made of such products under "received without payment of tax." Similarly, if such products are reduced to materials, entry must also be made of the resultant tobacco materials appropriately under "tobacco materials received." Entries in the records are not required to be made of taxpaid cigars and cigarettes received into a tobacco factory, or of taxpaid manufactured tobacco received into a cigar and cigarette factory. However, all taxpaid tobacco products received into any tobacco products factory must be stored, segregated, or earmarked in such a manner as to make them readily identifiable as taxpaid products received, for inspection and accounting purposes. Please note that the entries of receipt and disposition in this accounting of taxpaid tobacco products received into the factory should not be included in the summary entries in the monthly reports, Form 2134 or 2136.

Accounting for Untaxpaid Tobacco Products Received into the Factory.

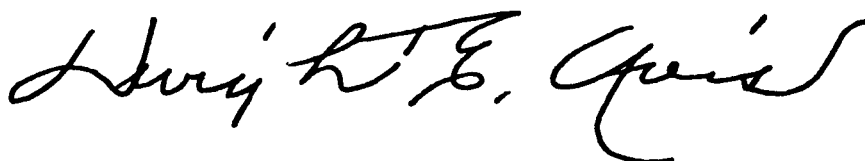
Manufacturers of cigars and cigarettes are required to enter in their records the number of all untaxpaid small cigars, large cigars, small cigarettes, and large cigarettes, and manufacturers of tobacco are required to enter in their records the quantity (in pounds) of all untaxpaid plug, twist and other forms of leaf, fine-cut chewing, scrap chewing, smoking tobacco, and snuff, received from another factory, an export warehouse, customs custody, and by withdrawal from the market (withdrawals in this instance cover only tobacco products removed for tax-exempt purposes and returned to the factory, and cigars removed subject to tax payable by return and returned to the factory prior to the time for payment of such tax). In recording the receipt of such products, the total number or quantity, as the case may be, of small cigars, large cigars, small cigarettes, large cigarettes, and manufactured tobacco (itemized

by kind), received each day will be entered in the account of products "received without payment of tax."

Effect on Prior Instructions. Any prior instructions relative to the keeping of tobacco products factory records, which are inconsistent or in conflict with the instructions contained in this industry circular, are hereby amended or superseded.

Effective Date. Sections 270.142 and 275.132, as amended by Treasury Decision 6262, and the instructions issued in this industry circular relative to records required to be maintained under such sections are effective January 1, 1958.

Inquiries. Inquiries in regard to this industry circular should refer to the number thereof and should be directed to the appropriate assistant regional commissioner (alcohol and tobacco tax).

A handwritten signature in cursive script, reading "Dwight E. Avis".

Dwight E. Avis
Director, Alcohol and Tobacco Tax Division